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ATTORNEY GENERAL

Office of the Attorney General
State of Texas

June 26, 1991

Ms. Elaine H. Piper
Assistant City Attorney
Police Legal Advisor
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79999

OR91-312

Dear Ms. Piper:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12605.

The documents that you have forwarded to us for review relate to two different investigations conducted by the El Paso Police Department. The investigations concern shootings that occurred on May 9, 1991, and May 16, 1991. The documents that relate to the May 9, 1991, incident consist of witness statements, various property reports, supplementary police investigative reports and a suspect's voluntary statement. The documents that relate to the May 16, 1991, incident are composed of witness statements, various property reports, and supplementary police investigative reports. You have received four requests for information related to the May 9, 1991, incident and one request for information related to the May 16, 1991, incident.

You assert that section 3(a)(8) of the Open Records Act excepts from required public disclosure all of the documents that you have forwarded to us for review except for the first page of the documents entitled "El Paso Police Department Death Report." You advise that you have released the first pages of both death reports. You also state that both the El Paso Police Department and the Federal Bureau of Investigation are still in the process of conducting their investigations into both shootings.

We agree that section 3(a)(8) excepts the documents in issue here from required public disclosure. Section 3(a)(8) is applicable to

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

The test under Section 3(a)(8) is whether release of the documents would "unduly interfere" with law enforcement or crime prevention. *See Ex Parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); *see also* Open Records Decision Nos. 434 (1986); 340 (1982); and 127 (1976). Since the release of the documents in issue here would unduly interfere with ongoing state and federal investigations, you may withhold those documents from public disclosure pursuant to section 3(a)(8).

One or more of the requestors for the documents at issue here have also asked for certain factual information such as the names of the persons who allegedly committed the shootings or the names and addresses of certain witnesses. The Open Records Act does not require a governmental body to answer factual questions. Open Records Decision No. 379 (1983). Thus, you are not required to provide the requested factual information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-312.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/lb

Ref.: ID Nos. 12605, 12666, 12698, 12795

Enclosures: Open Records Decision Nos. 434, 379, 340, 127

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